United States Department of Labor Employees' Compensation Appeals Board

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H.F., Appellant)
and) Docket No. 11-2031) Issued: May 9, 2012
U.S. POSTAL SERVICE, POST OFFICE, Birmingham, AL, Employer)
Appearances: Antonia Shields, for the appellant Office of Solicitor, for the Director	—

ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge

On September 14, 2011 appellant filed an application for review of the Office of Workers' Compensation Programs' (OWCP) June 16, 2011 merit decision terminating his compensation and medical benefits. The appeal was docketed as Docket No. 11-2031. The Board finds that this case is not in posture for a decision.

On February 3, 2011 appellant had filed an occupational disease claim under File No. xxxxxx952 alleging an acute lower back strain due to federal employment activities. By decision dated March 21, 2011, OWCP denied his claim.

The present appeal involves appellant's April 20, 2010 traumatic injury claim in File No. xxxxxx616, in which he alleged that he sustained a lower back injury on that date while lifting a mail tub at work. OWCP accepted the claim for lumbar strain. In a decision dated February 23, 2011, it terminated appellant's medical and compensation benefits on the grounds that he no longer had residuals of the accepted condition.

By decision dated June 16, 2011, an OWCP hearing representative affirmed the February 23, 2011 decision in File No. xxxxxx616. The hearing representative indicated that he had reviewed the record in File No. xxxxxxy952, noting that the record in that case reflected that appellant had discussed the occupational disease claim and his appeal rights with the claims examiner on March 25, 2011. The hearing representative also referred to progress notes

contained in File No. xxxxxx952 reflecting that appellant had nerve root impingement at the L5 level.

In the instant case, OWCP accepted that appellant sustained an injury to the same body part that is the subject of his occupational disease claim in File No. xxxxxx952. As appellant's diagnosed cervical and lumbar conditions are at issue in both cases, medical evidence contained in File No. xxxxxx952 will necessarily bear directly on the issue of whether his accepted condition has resolved in the instant case. Because it is essential for the Board to review the medical evidence contained in File No. xxxxxx952 in order to render a full and fair adjudication of the present appeal, this case will be remanded for OWCP to consolidate case file numbers xxxxxx952 and xxxxxx616. After developing the medical evidence as it deems necessary, OWCP should issue a *de novo* decision on the merits of the claim, in order to protect appellant's appeal rights.

IT IS HEREBY ORDERED that the Office of Workers' Compensation Programs' June 16, 2011 decision be set aside and the case remanded for further development consistent with this order.

Issued: May 9, 2012 Washington, DC

> Richard J. Daschbach, Chief Judge Employees' Compensation Appeals Board

> Alec J. Koromilas, Judge Employees' Compensation Appeals Board

> Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board